

REFERENCE TITLE: **homeowners' associations; condominiums; ombudsman's office**

State of Arizona  
Senate  
Forty-seventh Legislature  
Second Regular Session  
2006

# **SB 1100**

Introduced by  
Senator Waring

## AN ACT

AMENDING TITLE 33, CHAPTER 9, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 33-1271; AMENDING TITLE 33, CHAPTER 16, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 33-1814; AMENDING TITLE 32, CHAPTER 20, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 32-2108.02; MAKING AN APPROPRIATION; RELATING TO CONDOMINIUMS AND PLANNED COMMUNITIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 33, chapter 9, article 4, Arizona Revised Statutes,  
3 is amended by adding section 33-1271, to read:

4       33-1271. Dispute resolution: enforcement of condominium  
5                   documents; homeowners' community ombudsman

6       A. ON WRITTEN REQUEST BY ANY PARTY TO THE DISPUTE, THE OFFICE OF  
7       HOMEOWNERS' COMMUNITY OMBUDSMAN HAS JURISDICTION TO INVESTIGATE AND ATTEMPT  
8       TO RESOLVE DISPUTES BETWEEN ONE OR MORE MEMBERS OF AN ASSOCIATION AND THE  
9       BOARD OF DIRECTORS OF AN ASSOCIATION REGARDING THE FOLLOWING MATTERS RELATED  
10      TO THAT ASSOCIATION:

11       1. ENFORCEMENT OF ANY OF THE CONDOMINIUM DOCUMENTS FOR THAT  
12      CONDOMINIUM.

13       2. ENFORCEMENT OF THIS CHAPTER IN THAT CONDOMINIUM.

14       3. IMPOSITION AND ENFORCEMENT OF ANY ASSESSMENTS, FEES, PENALTIES OR  
15      FINES IN THAT CONDOMINIUM.

16       B. THE OFFICE OF HOMEOWNERS' COMMUNITY OMBUDSMAN SHALL PERFORM THE  
17      FOLLOWING SERVICES REGARDING CONDOMINIUMS:

18       1. ASSISTING OWNERS TO UNDERSTAND THEIR RIGHTS AND RESPONSIBILITIES AS  
19      MEMBERS OF THE CONDOMINIUM.

20       2. ASSISTING BOARD MEMBERS AND OFFICERS OF A CONDOMINIUM IN CARRYING  
21      OUT THEIR DUTIES TO THE CONDOMINIUM.

22       3. MONITORING AND REVIEWING PROCEDURES AND DISPUTES REGARDING  
23      CONDOMINIUM ELECTIONS AND MEETINGS.

24       4. COMPILING AND MAINTAINING A REGISTER FOR EACH CONDOMINIUM  
25      ASSOCIATION TO INCLUDE THE FOLLOWING:

26           (a) THE NAME, ADDRESS AND TELEPHONE NUMBER OF THE ASSOCIATION.

27           (b) THE NAME OF THE COMMUNITY MANAGER FOR THE CONDOMINIUM AND THE NAME  
28      OF ANY OTHER PERSON WHO IS AUTHORIZED TO MANAGE THE PROPERTY AT THE SITE OF  
29      THE CONDOMINIUM.

30           (c) THE NAMES, MAILING ADDRESSES AND TELEPHONE NUMBERS OF THE MEMBERS  
31      OF THE BOARD OF DIRECTORS OF THE ASSOCIATION.

32           (d) THE NAME OF THE DECLARANT.

33           (e) THE NUMBER OF UNITS IN THE CONDOMINIUM.

34           (f) THE TOTAL ANNUAL ASSESSMENT MADE BY THE ASSOCIATION.

35           (g) THE NUMBER OF FORECLOSURES THAT WERE COMPLETED ON UNITS WITHIN THE  
36      CONDOMINIUM AND THAT WERE BASED ON LIENS FOR THE FAILURE OF THE UNIT OWNER TO  
37      PAY AN ASSESSMENT, FINE, PENALTY OR OTHER SIMILAR FEE IMPOSED BY THE  
38      ASSOCIATION ON THE UNIT OWNER.

39           (h) WHETHER A STUDY OF THE ASSOCIATION'S RESERVE FUNDS HAS BEEN  
40      PERFORMED AND IF SO, THE DATE OF THE RESERVE STUDY.

41           (i) MAKING ANY RECOMMENDATIONS TO THE LEGISLATURE REGARDING STATUTORY  
42      OR OTHER CHANGES AS DEEMED APPROPRIATE BY THE HOMEOWNERS' COMMUNITY  
43      OMBUDSMAN.

44       C. ON RECEIPT OF A WRITTEN REQUEST BY A PARTY PURSUANT TO THIS  
45      SECTION, THE HOMEOWNERS' COMMUNITY OMBUDSMAN SHALL PROVIDE WRITTEN NOTICE OF

1 THE REQUEST TO THE OTHER PARTIES TO THE DISPUTE AND THAT WRITTEN NOTICE  
2 CONSTITUTES A SIXTY DAY STAY AGAINST ANY LEGAL PROCEEDINGS REGARDING THAT  
3 DISPUTE. AT THE END OF THE SIXTY DAYS, THE HOMEOWNERS' COMMUNITY OMBUDSMAN  
4 MAY EITHER EXTEND THE STAY IN WRITING AND CONTINUE TO INVESTIGATE AND ATTEMPT  
5 TO RESOLVE THE DISPUTE OR SHALL DECLARE THE MATTER TO BE UNRESOLVED AND  
6 TERMINATE THE STAY.

7 Sec. 2. Title 33, chapter 16, article 1, Arizona Revised Statutes, is  
8 amended by adding section 33-1814, to read:

9       33-1814. Dispute resolution; enforcement of community  
10      documents; homeowners' community ombudsman

11     A. ON WRITTEN REQUEST BY ANY PARTY TO THE DISPUTE, THE OFFICE OF  
12    HOMEOWNERS' COMMUNITY OMBUDSMAN HAS JURISDICTION TO INVESTIGATE AND ATTEMPT  
13    TO RESOLVE DISPUTES BETWEEN ONE OR MORE MEMBERS OF AN ASSOCIATION AND THE  
14    BOARD OF DIRECTORS OF AN ASSOCIATION REGARDING THE FOLLOWING MATTERS RELATED  
15    TO THAT ASSOCIATION:

16     1. ENFORCEMENT OF ANY OF THE COMMUNITY DOCUMENTS FOR THAT PLANNED  
17    COMMUNITY.

18     2. ENFORCEMENT OF THIS CHAPTER IN THAT PLANNED COMMUNITY.

19     3. IMPOSITION AND ENFORCEMENT OF ANY ASSESSMENTS, FEES, PENALTIES OR  
20    FINES IN THAT PLANNED COMMUNITY.

21     B. THE OFFICE OF HOMEOWNERS' COMMUNITY OMBUDSMAN SHALL PERFORM THE  
22    FOLLOWING SERVICES REGARDING PLANNED COMMUNITIES:

23     1. ASSISTING OWNERS TO UNDERSTAND THEIR RIGHTS AND RESPONSIBILITIES AS  
24    MEMBERS OF THE COMMUNITY.

25     2. ASSISTING BOARD MEMBERS AND OFFICERS OF A PLANNED COMMUNITY IN  
26    CARRYING OUT THEIR DUTIES TO THE COMMUNITY.

27     3. MONITORING AND REVIEWING PROCEDURES AND DISPUTES REGARDING PLANNED  
28    COMMUNITY ELECTIONS AND MEETINGS.

29     4. COMPILING AND MAINTAINING A REGISTER FOR EACH PLANNED COMMUNITY  
30    ASSOCIATION TO INCLUDE THE FOLLOWING:

31       (a) THE NAME, ADDRESS AND TELEPHONE NUMBER OF THE ASSOCIATION.

32       (b) THE NAME OF THE COMMUNITY MANAGER FOR THE PLANNED COMMUNITY AND  
33    THE NAME OF ANY OTHER PERSON WHO IS AUTHORIZED TO MANAGE THE PROPERTY AT THE  
34    SITE OF THE PLANNED COMMUNITY.

35       (c) THE NAMES, MAILING ADDRESSES AND TELEPHONE NUMBERS OF THE MEMBERS  
36    OF THE BOARD OF DIRECTORS OF THE ASSOCIATION.

37       (d) THE NAME OF THE DECLARANT.

38       (e) THE NUMBER OF HOMES IN THE PLANNED COMMUNITY.

39       (f) THE TOTAL ANNUAL ASSESSMENT MADE BY THE ASSOCIATION.

40       (g) THE NUMBER OF FORECLOSURES THAT WERE COMPLETED ON HOMES WITHIN THE  
41    PLANNED COMMUNITY AND THAT WERE BASED ON LIENS FOR THE FAILURE OF THE  
42    HOMEOWNER TO PAY AN ASSESSMENT, FINE, PENALTY OR OTHER SIMILAR FEE IMPOSED BY  
43    THE ASSOCIATION ON THE HOMEOWNER.

44       (h) WHETHER A STUDY OF THE ASSOCIATION'S RESERVE FUNDS HAS BEEN  
45    PERFORMED AND IF SO, THE DATE OF THE RESERVE STUDY.

(i) MAKING ANY RECOMMENDATIONS TO THE LEGISLATURE REGARDING STATUTORY OR OTHER CHANGES AS DEEMED APPROPRIATE BY THE HOMEOWNERS' COMMUNITY OMBUDSMAN.

C. ON RECEIPT OF A WRITTEN REQUEST BY A PARTY PURSUANT TO THIS SECTION, THE HOMEOWNERS' COMMUNITY OMBUDSMAN SHALL PROVIDE WRITTEN NOTICE OF THE REQUEST TO THE OTHER PARTIES TO THE DISPUTE AND THAT WRITTEN NOTICE CONSTITUTES A SIXTY DAY STAY AGAINST ANY LEGAL PROCEEDINGS REGARDING THAT DISPUTE. AT THE END OF THE SIXTY DAYS, THE HOMEOWNERS' COMMUNITY OMBUDSMAN MAY EITHER EXTEND THE STAY IN WRITING AND CONTINUE TO INVESTIGATE AND ATTEMPT TO RESOLVE THE DISPUTE OR SHALL DECLARE THE MATTER TO BE UNRESOLVED AND TERMINATE THE STAY.

Sec. 3. Title 32, chapter 20, article 1, Arizona Revised Statutes, is amended by adding section 32-2108.02, to read:

## 32-2108.02. Homeowners' community ombudsman; appointment; investigations; recommendations

A. THE OFFICE OF HOMEOWNERS' COMMUNITY OMBUDSMAN IS ESTABLISHED IN THE DEPARTMENT, CONSISTING OF THE OMBUDSMAN AND ONE OR MORE ASSISTANTS. THE HOMEOWNERS' COMMUNITY OMBUDSMAN SHALL BE APPOINTED BY THE GOVERNOR AND SHALL SERVE AT THE PLEASURE OF THE GOVERNOR.

B. THE HOMEOWNERS' COMMUNITY OMBUDSMAN SHALL ASSIST MEMBERS AND BOARDS OF DIRECTORS OF CONDOMINIUM AND PLANNED COMMUNITY ASSOCIATIONS TO CARRY OUT THEIR DUTIES AND SHALL INVESTIGATE AND ATTEMPT TO RESOLVE DISPUTES BETWEEN MEMBERS AND ASSOCIATIONS PURSUANT TO SECTIONS 33-1271 AND 33-1814. FOR PURPOSES OF THIS SECTION, THE HOMEOWNERS' COMMUNITY OMBUDSMAN SHALL HAVE ACCESS TO THE BOOKS AND RECORDS OF A CONDOMINIUM OR PLANNED COMMUNITY ASSOCIATION AS DETERMINED BY THE HOMEOWNERS' COMMUNITY OMBUDSMAN AND SHALL CONDUCT THE INVESTIGATION AS OTHERWISE PROVIDED BY THIS ARTICLE AND AS IF THE CONDOMINIUM OR PLANNED COMMUNITY ASSOCIATION IS A LICENSEE OF THIS STATE.

C. FOR ANY INVESTIGATION OR ATTEMPT AT DISPUTE RESOLUTION PURSUANT TO THIS SECTION, THE HOMEOWNERS' COMMUNITY OMBUDSMAN MAY PRESENT AN OPINION AND RECOMMENDATIONS TO THE PARTIES AFFECTED BY THE DISPUTE, THE LEGISLATURE, ANY OTHER PUBLIC AGENCY OR PUBLIC BODY OR THE PUBLIC, OR ANY COMBINATION OF THESE PERSONS.

**Sec. 4. Appropriation; homeowners' community ombudsman; purpose; exemption**

A. The sum of \$500,000 is appropriated from the state general fund in fiscal year 2006-2007 to the office of homeowners' community ombudsman for up to five full-time employees to assist in implementing this act.

B. The appropriation made in subsection A of this section is exempt from the provisions of section 35-190, Arizona Revised Statutes, relating to lapsing of appropriations.

## Sec. 5. Effective date

Sections 1, 2 and 3 of this act are effective on January 1, 2007.